



City of Carmel

MINUTES

Carmel Board of Zoning Appeals

Regular Meeting

Monday, September 28, 2009

6:00 pm

Council Chambers

Present: James Hawkins, President
Kent Broach
Leo Dierckman
Earlene Plavchak
Rick Ripma, Alternate
Connie Tingley, Recording Secretary

Staff members in attendance: Mike Hollibaugh, DOCS Director
Christine Barton-Holmes, Planning Administrator
Rachel Boone, Planning Administrator

Legal Counsel: John Molitor

Previous Minutes:

One a motion made by Leo Dierckman and seconded by Earlene Plavchak:

The minutes for the meeting dated August 24, 2009 were approved as circulated.

MOTION CARRIED UNANIMOUSLY

Department Report: Christine Barton-Holmes

- Items 10-11h, MG Hair Design-signage tabled until further notice; may need to re-notice
- Item 12h, Meridian & Main tabled until October 26
- Item 1i, 646 Johnson Drive Appeal tabled indefinitely

Legal Report: John Molitor

- Pending litigation with American Tower
 - Negotiations and discussions ongoing
 - Requested Court to indefinitely delay obligation for Board to certify the record
 - Executive Session needed next month

Public Hearing:

1h. VCA Veterinary Specialty Center Hours

The applicant seeks the following commitment amendment:

Docket No. 09080004 CA previous docket#05120009 CA Request to increase office hours & provide 24-hr emergency services

The site is located at 9745 Randall Drive and is zoned B3/Office/Commercial.

Filed by Dr. James Barton, VCA Veterinary Specialty Center.

Present for Petitioner:

Dr. James Barton

- Sold veterinary practice to VCA in 2008
- VCA also bought Bash Street 24-hour Clinic
- Dr. Barton is Medical Director
 - Trying to incorporate both practices into one practice
- Will build 30,000 square feet facility in Fishers
- Seeking permission for emergency cases 7:00 pm to 7:00 am for non-clients
- Bash Street averages 11 night time cases
 - Less than one car per hour
- Would increase patient care in Carmel community
- Temporary situation for two years

Remonstrance:

Chris Dykes, 10543 Shafer Circle, Williamson Run Subdivision, plus three additional homeowners

- Due to close proximity to Dan Young parcel, Williamson Run Homeowners Association (HOA) negotiated 1998 agreement
 - Governed development and use of parcels adjacent to Randall Drive
 - Architectural requirements, types of businesses permitted, landscaping requirements, exterior lighting, and hours of operation for particular businesses located in the office buildings
 - “No retail operation shall occur on any portion of the western parcel and all uses shall be of the general office nature including without limitation professional offices, medical offices, dental offices, veterinary offices excluding outdoor kennels and animal runs, financial institution offices, insurance offices, real estate offices, clinics or health centers, but excluding warehousing or storage services. The operation of each part of this property shall be restricted from 7:00 am to 7:00 pm.”
- 2005 Williamson Run HOA approached by VCA to open clinic at 9745 Randall Drive
 - Violated type of allowed businesses section of the agreement
 - Amendment drafted to declaration of commitments for 96th Street Auto Park which reads: “The hours during which businesses within the western parcel are open to the public shall be restricted to the hours between 7:00 am and 7:00 pm provided however that the owners or employees of such businesses shall not be prohibited from working in the buildings within the western parcel before 7:00 am or after 7:00 pm. Businesses shall not be prohibited from providing unscheduled, non-routine and irregular emergency medical and/or emergency veterinary services as is necessary for the urgent care of the business’s patients before 7:00 am or after 7:00 pm.”
 - Language allows limited 24-hour service
 - Concerned with extending and marketing office hours to 24 hours
 - Violates commitments for parcel
 - Added exposure to traffic, crime, noise next to residential community

Rebuttal:

Dr Barton

- Understands homeowners’ concerns
- No hidden agenda
- Traffic less than one new car per hour

- Temporary location
- Giving Carmel emergency veterinary clinic
- No barking dogs; nothing warrants increase in crime
- When he was the owner, he did not do emergencies granted in the agreement
- Trying to make situation work for two-year period
- Bash Street clinic is one of oldest in area; no increase expected

Public Hearing closed

Legal Report:

John Molitor

- Pubic Notice states Carmel Plan Commission will conduct hearing; every thing else accurate
- Recommend motion to suspend rules

Action:

On a motion made by Leo Dierckman and seconded by Earlene Plavchak:

Rules are suspended to hear the petition.

MOTION APPROVED UNANIMOUSLY

Department Report:

Christine Barton-Holmes

- These are usually heard by Plan Commission
- 2000 Special Use granted
- Subsequent Commitment Amendments recommended to be heard by BZA
- Minor/temporary modification
- Specialized veterinary clinic
- No additional traffic
- Randall Drive serves as driveway into subdivision
- Not viable shortcut for people accessing 96th Street
- Do not see negative impact from increase in hours

Department recommended positive consideration.

Discussion:

- Clinic may take place of Bash Street Clinic in 6 months to one year
- If approved, 24-hour operation after Bash Street Clinic closed
- Bash Street used to be multi-center
 - Personnel merged with Randall Drive Clinic
 - One surgeon, one new surgeon and emergency clinic
- Specialty center; no existing client base
 - Commitments allow after-hours visits from their clients
 - Clients referred by other veterinarians
- Two-year time limit feasible
- Variance would go with the property; not the business; could continue with another clinic at this address
- Ownership and circumstances have changed, but neighbors do not expect business to be conducted 7:00 pm to 7:00 am on a regular basis

Motion: On a motion made by James Hawkins and seconded by Kent Broach:

Docket No. 09080004 CA, VCA Veterinary Specialty Center for increased office hours and 24-hour emergency services be approved with a two-year limit.

MOTION DENIED 1-4 (Broach, Dierckman, Plavchak, Ripma negative)

2-4h. Indiana Spine Group – Signage

The applicant seeks the following development standards variance approvals:

Docket No. 09080006V	25.07.02-08 (b)	Number of signs
Docket No. 09080007V	25.07.02-08 (b)	One sign not facing a public ROW (south)
Docket No. 09080008V	25.07.02-08 (c)	Total square footage

The site is located at Lot 4 of the Meridian & Main Development. It is zoned B-6/Business within the US 31 Overlay.

Filed by Jamie Browning of Browning Investments, Inc.

Present for Petitioner:

James Browning

- Plan Commission approved renderings shown
- Proposed signage for project shown
- Contemplating moving from 86th Street
- Aerial of property shown
- Private drive within development
 - City prefers developer maintain ownership of drive
 - Private drive affects number of signs permitted
 - Would like sign on each side of building; consistent with Meridian Corridor
 - Would like square footage for sign on public road

Public Hearing closed

Department Report:

Rachel Boone

- Proposed 93.63 square feet each side (north and south)
- South sign needs variance; not public street
- Access will be from south
- Designed well; fitting within building
- Approved by Plan Commission

Department recommended positive consideration.

Discussion:

- Sign would be permitted on public street

Motion: On a motion made by Kent Broach and seconded by James Hawkins:

Docket Nos. 09080006 V through 09080008 V Indiana Spine Group-signage be approved.

MOTION APPROVED UNANIMOUSLY

5-9h. Meridian Plaza – Signage

The applicant seeks the following development standards variance approvals:

- Docket No. 09080012V 25.07.02-10 (b) Potentially up to 2 signs facing a ROW (west) for Building 1**
Docket No. 09080013V 25.07.02-10 (b) Potentially 1 sign not facing a ROW (south) for Building 1
Docket No. 09080014V 25.07.02-10 (b) Potentially up to 4 signs facing a ROW (west) for Building 2 & 3
Docket No. 09080015V 25.07.02-10 (b) Number of signs for Building 2 & 3
Docket No. 09080016V 25.07.02-10 (b) Potentially up to 2 signs facing a ROW (east) for Building 2 & 3

The site is located at 10585, 10401, and 10333 N. Meridian St. (Meridian Plaza).

It is zoned B-5/Business within the US 31 Overlay zone.

Filed by Paul Reis of Krieg DeVault LLP on behalf of the owner.

Present for Petitioner:

Paul Reis, Krieg DeVault, Dan Richardson and John Vandembark, CB Richard Ellis leasing agents

- Meridian Plaza Office Park aerial shown
 - Extends 103rd Street to 106th Street
 - Silver buildings on east side of Meridian
- Started at Plan Commission for additional signage for new tenant
 - Wanted change of color for signs
 - Lauth originally required all signs to be green
 - New owners have maintained green signage
- Plan Commission comfortable with change; wanted sign plan revised
- Flexible program designed to market buildings for good tenants
- Locations shown for flexible sign placements
- Allowable total signage for each building would be the maximum permitted
 - Some signs small and some large
 - More smaller signs permitted
 - Not cluttered; only two signs visible from north or south
 - Similar to Lauth Meridian Corporate Plaza
 - Gain flexibility, symmetrical locations
- Elevations shown with examples

Dan Richardson, CB Richard Ellis, 101 W Washington St, Indianapolis

- Built 1984-1989
- Well maintained
- Compete with Keystone at the Crossing buildings around the Fashion Mall and Precedent Park
- Indianapolis signage requirements more lax
- Package is good compromise for number, uniformity and prestige
- Feel they are front door to Carmel on US 31
- Current occupancy at lowest since 2002
- Tough sale with US 31 construction

Paul Reis

- Package for numerous locations, but maximum of 4 signs on each building for flexibility

Public Hearing closed

Department Report:

Rachel Boone

- Common request to use all square footage available
 - Figured maximum number of signs and square footage permitted
 - Divide signage equally among allowable square footage per building
 - Done with other buildings in US 31 corridor
- Building #1: 275 square feet; 90 square feet per sign
- Building #2: 205 square feet; 51.25 square feet per sign
- Building #3: 310 square feet; 77.5 square feet per sign
- Site well developed with mature trees
- Follows request for sign package with white tenant name and color logo limited to 25%

Department recommended positive consideration

Discussion:

- Number of signs if building is leased by one tenant

Motion: On a motion made by James Hawkins and seconded by Leo Dierckman:

Docket Nos. 09080012 V through 09080016 V Meridian Plaza-signage be approved with Condition that single tenant is limited to two signs that must be on different frontages.

MOTION APPROVED UNANIMOUSLY

10-11h. MG Hair Design – Signage TABLED

The applicant seeks the following development standards variance approvals:

Docket No. 09070018V 25.07.02-09 (b) Number of signs

Docket No. 09070019V 25.07.02-09 (b) Sign not facing a ROW (south)

The site is located at 13190 Hazel Dell Parkway. It is zoned B-3/Business.

Filed by Dave Coots of Coots, Henke and Wheeler for Marie Green of MG Hair Design.

12h. Meridian & Main TABLED

The applicant seeks the following development standards variance approvals and use variance approval:

Docket No. 09050012 V 23B.08.03.A.1 Building height under 26'/one occupiable floor

The site is located at 1440 Main Street West and is zoned B6 within the US 31 Overlay.

Filed by Joseph Scimia of Baker & Daniels and James Browning of Browning Investments for Meridian 131, LLC.

I. Old Business

1i. 646 Johnson Drive Appeal TABLED

The applicant seeks the following permit issuance appeal:

~~**Docket No. 09020014 Appeal Appeal of Permit No. 09010003 Accessory Structure Size**~~

~~The site is located at 646 Johnson Drive and is zoned R1/Single-family residential~~

~~Filed by: Howard & Holly Green; John & Beryl Colosimo; James & Laura Dunn; Judy Wagner; and Michael & Susan Shaw, neighbors.~~

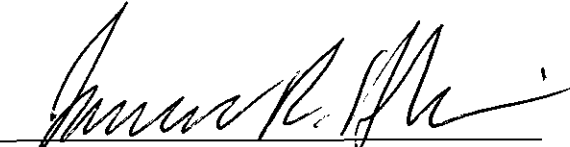
Adjournment

Motion: On a motion made by Leo Dierckman and seconded by Earlene Plavchak:
The Meeting be adjourned.

MOTION CARRIED UNANIMOUSLY

The meeting adjourned at 6:50 PM.

Approved this 26th day of October 2009.



President - James R. Hawkins



Secretary - Connie Tingley